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OFFICE OF PETITIONS

In re Application of

Bruce A. Rogers

:

Application No. 10/763,870

: DECISION ON PETITION

Filed: January 23, 2004

:

Attorney Docket No. 08859-0010

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 19, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on August 20, 2005. A Notice of Abandonment was mailed on November 29, 2005.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply form the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office

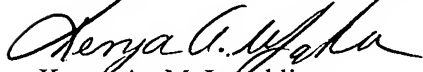
The response filed November 20, 2006, is noted.

The request for an extension of time within the third month, filed November 20, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of \$510.00 will be refunded, in due course.

The power of attorney filed November 20, 2006, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3732 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

A handwritten signature in black ink, appearing to read "Kenya A. McLaughlin". The signature is fluid and cursive, with the first name "Kenya" being more prominent.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions